IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO. 177 OF 2006
IN
NOTICE OF MOTION NO. 2012 OF 2003
IN
SUIT NO. 2046 OF 2003

Mr. J. Paul De Sousa & 2 ors.] .. Appellants (Ori.Def.1 - 3)

Versus

1. Mr. Tarun Y. Sankwalkar & 4 ors.] .. Respondents

Mr. Aspi Chinoy, senior counsel with Mr. P.N. Modi & Mr. R.R. Bhansal i/b Mr. Y.M. Jain for the appellants.

Mr. D.D. Madon, senior counsel with Mr. Denzil D'Mello for the respondents No.1 and 2.

CORAM: R.M. LODHA, &
S.A. BOBDE, JJ.

DATED: 20TH DECEMBER, 2006

P.C. :

. We heard the senior counsel for the parties.

2. During the course of arguments, the consensus emerged for the following order:

(i) The Court Receiver, High Court, Bombay, appointed as Receiver by the Motion Judge shall continue as such in respect of

the suit premises.

(ii) The defendants shall stand appointed as Agents of the Court Receiver without security and royalty.

(iii) It will be open to the plaintiffs to claim compensation for having been deprived of use and occupation of the subject premises during the pendency of the suit. The statement of the senior counsel for the defendants is recorded and accepted that such claim for compensation shall not be contested by the defendants on the ground of maintainability of such claim in the suit under Section 6 of the Specific Relief Act but the defendants shall be entitled to oppose grant of such compensation on all other grounds. Obviously, the merits of such compensation shall be examined by the Court and liberty granted to the plaintiffs to claim compensation shall not be construed as direction to award compensation to the plaintiffs.

3. The impugned order dated 18th January, 2006,

stands modified in the aforesaid terms.

4. Leave to amend the Plaint regarding compensation is granted. Amendment shall be carried out within four weeks from today. Needless to say that the defendants shall be at liberty to file supplementary written statement.

5. Appeal stands disposed of accordingly.

Sd/-
[R.M. LODHA, J.]

Sd/-
[S.A. BOBDE, J.]